

House File 2039 - Introduced

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BY JACOBY

A BILL FOR

1 An Act relating to the treatment of animals other than
2 agricultural animals by providing for the inspection or
3 monitoring of commercial establishments by the department
4 of agriculture and land stewardship, and making penalties
5 applicable.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.10B, Code 2024, is amended to read
2 as follows:

3 **162.10B Commercial establishments — inspecting state**
4 **licensees and registrants or state licensees.**

5 1. The department ~~may~~ shall inspect the commercial
6 establishment of a registrant or state licensee ~~by entering on~~
7 a priority and scheduled basis.

8 2. a. The department shall inspect a commercial
9 establishment on a priority basis according to criteria
10 determined relevant by the department.

11 b. The department shall enter onto ~~its~~ the business premises
12 at any time during normal working hours of the registrant or
13 state licensee. The department shall determine whether the
14 registrant or state licensee is complying with section 162.10A.

15 c. The department may inspect records required to be
16 maintained by the state licensee or registrant as provided in
17 this chapter.

18 d. The department must inspect the commercial establishment
19 during normal business hours.

20 e. The department shall inspect the commercial establishment
21 regardless of when the department inspected the commercial
22 establishment on a scheduled basis.

23 3. The department shall inspect a commercial establishment
24 on a scheduled basis subject to all of the following:

25 a. The department is limited to entering onto the business
26 premises of a state licensee operating as a commercial breeder.

27 b. The department must enter on the business premises of the
28 state licensee once each twelve-month period.

29 c. The department must inspect the commercial establishment
30 during normal business hours.

31 d. The department shall determine whether the state licensee
32 is complying with section 162.10A.

33 e. The department may inspect records required to be
34 maintained by the state licensee.

35 4. If the owner or person in charge of the commercial

1 establishment ~~refuses admittance~~ to allow an inspection under
2 this section, the department may obtain an administrative
3 search warrant issued under section 808.14. The person shall
4 comply with the search warrant.

5 Sec. 2. Section 162.10C, Code 2024, is amended to read as
6 follows:

7 **162.10C Commercial establishments — monitoring permittees.**

8 1. The department ~~may shall~~ monitor the commercial
9 establishment of a permittee by entering onto its business
10 premises at any time during normal working hours for the
11 limited purpose of determining whether the permittee is
12 providing for a standard of care required for permittees under
13 section 162.10A. ~~The department shall monitor the commercial~~
14 ~~establishment for the limited purpose of determining whether~~
15 ~~the permittee is providing for a standard of care required for~~
16 ~~permittees under section 162.10A~~. ~~If the owner or person in~~
17 ~~charge of the commercial establishment refuses admittance, the~~
18 ~~department may obtain an administrative search warrant issued~~
19 ~~under section 808.14~~.

20 2. ~~In order to enter onto the business premises of a~~
21 ~~permittee's commercial establishment, The department shall~~
22 inspect the commercial establishment of a permittee on a
23 priority and scheduled basis.

24 3. a. The department shall monitor a commercial
25 establishment on a priority basis, if the department must have
26 has reasonable cause to suspect that the permittee is not
27 providing for the standard of care required for permittees
28 under section 162.10A.

29 (1) Reasonable cause must be supported by any of the
30 following:

31 ~~a.~~ (a) An oral or written complaint received by the
32 department by a person. The complainant must provide
33 the complainant's name and address and telephone number.
34 Notwithstanding chapter 22, the department's record of a
35 complaint is confidential, unless any of the following apply:

1 ~~(1)~~ (i) The results of the monitoring are used in a
2 contested case proceeding as provided in [chapter 17A](#) or in a
3 judicial proceeding.

4 ~~(2)~~ (ii) The record is sought in discovery in any
5 administrative, civil, or criminal case.

6 ~~(3)~~ (iii) The department's record of a complaint is filed
7 by a person other than an individual.

8 ~~b.~~ (b) A report prepared by a person employed by the United
9 States department of agriculture that requires a permittee to
10 take action necessary to correct a breach of standard of care
11 required of federal licensees by the Animal Welfare Act or of
12 permittees by [section 162.10A](#). The department is not required
13 to dedicate any number of hours to viewing or analyzing such
14 reports.

15 ~~3.~~ (2) When carrying out this ~~section~~ paragraph, the
16 department may cooperate with the United States department
17 of agriculture. The department shall report any findings
18 resulting in an enforcement action under [section 162.10D](#) to the
19 United States department of agriculture.

20 b. If the department has reasonable cause, it shall enter
21 onto the business premises of the permittee. The department
22 shall inspect a commercial establishment subject to all of the
23 following:

24 (1) The department shall determine whether the permittee is
25 complying with section 162.10A.

26 (2) The department must inspect the commercial
27 establishment during normal business hours.

28 (3) The department shall inspect the commercial
29 establishment regardless of when the department inspected the
30 commercial establishment on a scheduled basis.

31 4. The department shall inspect a commercial establishment
32 on a scheduled basis subject to all of the following:

33 a. The department is limited to entering onto the business
34 premises of a permittee operating as a commercial breeder.

35 b. The department must enter onto the business premises of

1 the permittee once each twelve-month period.

2 c. The department must inspect the commercial establishment
3 during normal business hours.

4 d. The department shall determine whether the permittee is
5 complying with section 162.10A.

6 5. If the owner or person in charge of the commercial
7 establishment refuses to allow the inspection under this
8 section, the department may obtain an administrative search
9 warrant issued under section 808.14. The person shall comply
10 with the search warrant.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 BACKGROUND — GENERAL. This bill amends Code chapter 162,
15 which provides for the regulation of commercial establishments
16 that possess or control animals, other than animals used
17 for an agricultural purpose (Code section 162.1). The Code
18 chapter is administered and enforced by the department of
19 agriculture and land stewardship (DALs). DALs issues various
20 forms of authorizations according to the type of commercial
21 establishment regulated, with each type subject to a separate
22 fee (Code section 162.2B). An animal shelter, pound, or
23 research facility is issued a certificate of registration
24 (Code sections 162.3, 162.4, and 162.4A); a pet shop, boarding
25 kennel, or commercial kennel is issued a state license (Code
26 sections 162.5, 162.5A, and 162.6); and a dealer, commercial
27 breeder, or public auction may elect to be issued a state
28 license or a permit. However, in order to be issued a permit,
29 the dealer, commercial breeder, or public auction must be
30 licensed under the federal Animal Welfare Act (7 U.S.C. ch. 54)
31 by the United States department of agriculture (USDA) (Code
32 sections 162.7, 162.8, and 162.9A).

33 BACKGROUND — REQUIREMENTS. A registrant or state licensee
34 (registrant/state licensee) is required to maintain business
35 records (records) while a permittee may but is not required

1 to maintain those records. The Code chapter requires that a
2 commercial establishment must ensure that an animal in its
3 possession or under its control is provided a minimum standard
4 of care (adequate feed, adequate water, housing facilities,
5 sanitary control, grooming, and veterinary care) (Code section
6 162.10A). A commercial establishment must comply with DALs'
7 rules. However, the standard of care for a permittee cannot be
8 more restrictive than the federal Animal Welfare Act.

9 BACKGROUND — ENTERING ONTO THE BUSINESS PREMISES OF A
10 COMMERCIAL ESTABLISHMENT. DALs may inspect a registrant/state
11 licensee by entering onto its business premises and may inspect
12 its records (Code section 162.10B). Alternatively, DALs may
13 monitor a permittee by entering onto its business premises
14 for the limited purpose of determining whether the permittee
15 is providing for the required standard of care (Code section
16 162.10C). In order to enter onto the premises of a permittee,
17 DALs must have reasonable cause supported by an oral or written
18 complaint or a report filed by the USDA.

19 BACKGROUND — REGULATION OF COMMERCIAL BREEDERS. A
20 commercial establishment that possesses or controls dogs
21 or cats as a commercial breeder operates either as a
22 registrant/state licensee or permittee. A commercial breeder
23 is a person engaged in the business of breeding dogs or cats,
24 or who sells, exchanges, or leases dogs or cats, in return
25 for consideration. However, an exception applies to exclude
26 a person who owns or harbors three or fewer breeding males or
27 females (Code section 162.2).

28 BILL'S PROVISIONS — INSPECTION OR MONITORING OF COMMERCIAL
29 ESTABLISHMENTS OPERATING AS A REGISTRANT/STATE LICENSEE OR
30 PERMITTEE. The bill provides for inspecting a commercial
31 establishment operated by a registrant/state licensee, or
32 monitoring a commercial establishment operated by a permittee,
33 on both a priority and scheduled basis. DALs inspects or
34 monitors a commercial establishment on a priority basis
35 according to its criteria, which is the same process that

1 exists under current law, with one exception. If DALs enters
2 onto the business premises of a commercial establishment,
3 it must determine whether the registrant/state licensee or
4 permittee is complying with the respective standard of care
5 requirements. For inspecting or monitoring a commercial
6 establishment on a scheduled basis, DALs must enter onto the
7 business premises of each commercial establishment operating
8 as a commercial breeder (state licensee or permittee) once
9 each 12-month period to determine compliance with applicable
10 standard of care requirements. There is no reasonable cause
11 requirement that must support DALs' entry onto the permittee's
12 commercial establishment.

13 APPLICABLE PENALTIES. DALs is authorized to establish,
14 impose, and assess a civil penalty of not more than \$500 for
15 a violation of the Code chapter by a commercial establishment
16 subject to registration/state license or permit (Code
17 section 162.12A). DALs may also suspend or revoke the
18 registration/state license or permit (Code section 162.10D).